

AMENDED IN ASSEMBLY JANUARY 4, 2012

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 317**

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**Introduced by Assembly Member Charles Calderon**

February 9, 2011

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An act to amend ~~Section~~ *Sections 798.21 and 798.74.5* of the Civil Code, relating to mobilehomes.

### LEGISLATIVE COUNSEL'S DIGEST

AB 317, as amended, Charles Calderon. Mobilehomes.

Existing law, the Mobilehome Residency Law, governs tenancies in mobilehome parks, and imposes various duties on the owners of mobilehome parks and the agents and representatives authorized to act on behalf of the owners. Existing law exempts a rental agreement from any local ordinance, rule, regulation, or initiative that establishes a maximum amount that a landlord may charge a tenant for rent if a mobilehome space within a mobilehome park is not the principal residence, as defined, of the mobilehome owner. Existing law further makes those exemptions inapplicable under certain circumstances.

This bill would revise the conditions under which a tenancy is exempt from a local rent control ordinance, rule, regulation, or initiative, to, among other things, make the exemptions applicable when the mobilehome space is not the sole residence of the mobilehome owner. The bill would specify the evidence upon which management of a mobilehome park may rely to determine whether a residence is the mobilehome owner's sole residence, including, among others factors, evidence that a mobilehome owner rents, leases, occupies, or has a

present ownership interest in another place of residence. *This bill would require management to provide the homeowner with 90 days' written notice of any proposed rent modifications based on lack of sole residency at the mobilehome park, and specify related procedures, including mandatory binding arbitration if the homeowner disputes management's determination, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 798.21 of the Civil Code is amended to  
2 read:

3 798.21. (a) Notwithstanding Section 798.17, if a mobilehome  
4 space within a mobilehome park is not the sole residence of the  
5 owner of the mobilehome, it shall be exempt from any ordinance,  
6 rule, regulation, or initiative measure adopted by any city, county,  
7 or city and county, that establishes a maximum amount that the  
8 landlord may charge a tenant for rent.

9 (b) Nothing in this section shall be construed to authorize  
10 management to gain access to any records which would otherwise  
11 be confidential or privileged.

12 ~~(c) Before modifying the rent or other terms of tenancy as a~~  
13 ~~result of a review of evidence that a mobilehome is not the sole~~  
14 ~~residence of the mobilehome owner, the management shall notify~~  
15 ~~the mobilehome owner, in writing, of the proposed changes and~~  
16 ~~provide a copy of the documents upon which management relied.~~

17 (c) *The management of a mobilehome park shall not modify the*  
18 *rent or other terms of tenancy pursuant to this section without*  
19 *providing the mobilehome owner with written notice 90 days in*  
20 *advance of the effective date of the proposed modification. The*  
21 *notice shall include copies of or evidence in determination of the*  
22 *modification.*

23 (d) Evidence that a mobilehome is not the sole residence of the  
24 mobilehome owner may include, but is not limited to, the  
25 following:

26 (1) The mobilehome owner rents, leases, occupies, or has a  
27 present ownership interest in another place of residence.

28 (2) Another place of residence appears as a matter of public  
29 record or in other evidence obtained by management.

1 (3) Monthly statements are mailed to, or payments are made  
2 from, a different place of residence.

3 (4) The mobilehome owner is regularly absent from the  
4 mobilehome space for extended periods of a week or more at a  
5 time.

6 (5) The mobilehome is used primarily for vacationing, storage,  
7 or business.

8 (6) The mobilehome has been subleased or possession of the  
9 mobilehome has been transferred without management's approval,  
10 as provided in Sections 798.74 and 798.75.

11 ~~(e) The mobilehome owner shall have 90 days from the date~~  
12 ~~the notice described in subdivision (d) is mailed to review and~~  
13 ~~respond to the notice. Management may not modify the rent or~~  
14 ~~other terms of tenancy prior to the expiration of the 90-day period~~  
15 ~~or prior to responding, in writing, to information provided by the~~  
16 ~~homeowner. Management may not modify the rent or other terms~~  
17 ~~of tenancy if the mobilehome owner provides documentation~~  
18 ~~reasonably establishing that the information provided by~~  
19 ~~management is incorrect or that the mobilehome owner is not the~~  
20 ~~same person identified in the documents.~~

21 *(e) The mobilehome owner shall have 30 days from the date the*  
22 *management's notice is mailed to review and dispute the*  
23 *management's findings in writing.*

24 *(f) Any disputes pursuant to this section shall be arbitrated.*

25 *(1) The owner or management of the mobilehome park shall*  
26 *pay the costs of the arbitration.*

27 *(2) The parties shall meet and confer to select a mutually*  
28 *agreeable arbitrator. If the parties cannot agree to an arbitrator*  
29 *within 10 days after the homeowner's written response is received,*  
30 *the management shall obtain a list of five arbitrators from any*  
31 *bona fide dispute resolution provider serving the judicial district*  
32 *in which the mobilehome park is located. Each party shall be able*  
33 *to disqualify up to two arbitrators from the list. Any remaining*  
34 *arbitrator may be selected.*

35 *(3) Within 30 days after selection, the arbitrator shall, at a time*  
36 *and place reasonably convenient to the parties, hear the evidence*  
37 *relevant to the dispute. No attorney may represent either party at*  
38 *an arbitration hearing.*

39 *(4) Within 15 days of hearing the evidence, the abitrator shall*  
40 *render a written decision as to whether the mobilehome is the sole*

1 *residence of the mobilehome owner. The decision of the arbitrator*  
2 *is final. If the management of the mobilehome park prevails in*  
3 *arbitration, it may modify the rent, or any other tenancy terms, as*  
4 *provided in the notice pursuant to subdivision (c). If the homeowner*  
5 *prevails, management may not modify the rent or any other tenancy*  
6 *terms, as provided in the notice.*

7 ~~(f)~~

8 (g) This section shall not apply under any of the following  
9 circumstances:

10 (1) The mobilehome is the sole residence of the mobilehome  
11 owner. *For purposes of this subdivision, a mobilehome owner*  
12 *includes a person who has a full-time tenancy in a mobilehome*  
13 *park under a rental agreement, a senior who is a full-time resident*  
14 *of a mobilehome owned by a child of the senior, or a child with a*  
15 *disability or handicap who is a full-time resident of a mobilehome*  
16 *owned by a parent or guardian of the child.*

17 (2) The space is subleased by the owner for a medical hardship  
18 pursuant to Section 798.23.5.

19 (3) Ownership of the mobilehome is transferred to an heir, joint  
20 tenant, or personal representative pursuant to Section 798.78.

21 (4) Management elects to apply an exemption or right set forth  
22 in the ordinance, rule, regulation, or initiative measure that  
23 establishes a maximum amount that a landlord may charge a tenant  
24 for rent.

25 ~~(g)~~

26 (h) If management authorizes the subleasing of mobilehomes  
27 in the park, management shall allow the mobilehome owner to  
28 sublease the mobilehome, or restrict the amount of rent that the  
29 mobilehome owner may charge. For the term of the sublease, the  
30 space shall be exempt from any ordinance, rule, regulation, or  
31 initiative measure adopted by a city, county, or city and county,  
32 that establishes a maximum amount of rent that a landlord may  
33 charge a tenant. Upon reoccupation of the space by the mobilehome  
34 owner after the term of the sublease has expired, the last rental  
35 rate charged to the mobilehome owner shall be the base rental rate  
36 for purposes of the ordinance, rule, regulation, or initiative  
37 measure.

38 *SEC. 2. Section 798.74.5 of the Civil Code is amended to read:*

39 798.74.5. (a) Within two business days of receiving a request  
40 from a prospective homeowner for an application for residency

1 for a specific space within a mobilehome park, if the management  
2 has been advised that the mobilehome occupying that space is for  
3 sale, the management shall give the prospective homeowner a  
4 separate document in at least 12-point type entitled  
5 “INFORMATION FOR PROSPECTIVE HOMEOWNERS,”  
6 which includes the following statements:

7  
8 “As a prospective homeowner you are being provided with certain  
9 information you should know prior to applying for tenancy in a  
10 mobilehome park. This is not meant to be a complete list of  
11 information.

12  
13 Owning a home in a mobilehome park incorporates the dual role  
14 of “homeowner” (the owner of the home) and park resident or  
15 tenant (also called a “homeowner” in the Mobilehome Residency  
16 Law). As a homeowner under the Mobilehome Residency Law,  
17 you will be responsible for paying the amount necessary to rent  
18 the space for your home, in addition to other fees and charges  
19 described below. You must also follow certain rules and regulations  
20 to reside in the park.

21  
22 If you are approved for tenancy, and your tenancy commences  
23 within the next 30 days, your beginning monthly rent will be \$\_\_\_\_  
24 (must be completed by the management) for space number \_\_\_\_  
25 (must be completed by the management). Additional information  
26 regarding future rent or fee increases may also be provided.

27  
28 In addition to the monthly rent, you will be obligated to pay to the  
29 park the following additional fees and charges listed below. Other  
30 fees or charges may apply depending upon your specific requests.  
31 Metered utility charges are based on use.

32  
33 \_\_\_\_\_  
34 \_\_\_\_\_  
35 (Management shall describe the fee or charge and a good faith  
36 estimate of each fee or charge.)

37  
38 Some spaces are governed by an ordinance, rule, regulation, or  
39 initiative measure that limits or restricts rents in mobilehome parks.  
40 *These laws are commonly known as “rent control” which are*

1 *intended for the purpose of protecting low-income persons with*  
2 *few housing choices from unjustifiable rent increases. Prospective*  
3 *purchasers who do not occupy the mobilehome as their sole*  
4 *residence may be subject to rent levels which are not governed by*  
5 *these laws.* Long-term leases specify rent increases during the term  
6 of the lease. By signing a rental agreement or lease for a term of  
7 more than one year, you may be removing your rental space from  
8 a local rent control ordinance during the term, or any extension,  
9 of the lease if a local rent control ordinance is in effect for the area  
10 in which the space is located.

11  
12 A fully executed lease or rental agreement, or a statement signed  
13 by the park's management and by you stating that you and the  
14 management have agreed to the terms and conditions of a rental  
15 agreement, is required to complete the sale or escrow process of  
16 the home. You have no rights to tenancy without a properly  
17 executed lease or agreement or that statement. (Civil Code Section  
18 798.75)

19  
20 If the management collects a fee or charge from you in order to  
21 obtain a financial report or credit rating, the full amount of the fee  
22 or charge will be either credited toward your first month's rent or,  
23 if you are rejected for any reason, refunded to you. However, if  
24 you are approved by management, but, for whatever reason, you  
25 elect not to purchase the mobilehome, the management may retain  
26 the fee to defray its administrative costs. (Civil Code Section  
27 798.74)

28  
29 We encourage you to request from management a copy of the lease  
30 or rental agreement, the park's rules and regulations, and a copy  
31 of the Mobilehome Residency Law. Upon request, park  
32 management will provide you a copy of each document. We urge  
33 you to read these documents before making the decision that you  
34 want to become a mobilehome park resident.

35  
36 Dated: \_\_\_\_\_

37 Signature of Park Manager: \_\_\_\_\_

38 Acknowledge Receipt by Prospective Homeowner: \_\_\_\_\_”

- 1     (b) Management shall provide a prospective homeowner, upon
- 2     his or her request, with a copy of the rules and regulations of the
- 3     park and with a copy of this chapter.
- 4     (c) This section shall become operative on October 1, 2004.

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